

ARTICLE XI

SECURITY

11.1. All Classified Information provided or generated pursuant to this Agreement and any of its PAs shall be stored, handled, transmitted, and safeguarded in accordance with the General Security of Military Information Agreement between Singapore and the United States of America, dated 9 March 1983.

11.2. Classified Information shall be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Parties. Such information shall bear the level of classification and denote the country of origin, the conditions of release, and the fact that the information relates to this Agreement and the applicable PA.

11.3. Each Party shall take all lawful steps available to it to ensure that information provided or generated pursuant to this Agreement and any of its PAs is protected from further disclosure, except as permitted by paragraph 11.4., unless the other Party consents to such disclosure. Accordingly, each Party shall ensure that:

- 11.3.1. The recipient shall not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Party in accordance with the procedures set forth in Article XII (Third Party Sales and Transfers).
- 11.3.2. The recipient shall not use the Classified Information for other than the purposes provided for in this Agreement and any of its PAs.
- 11.3.3. The recipient shall comply with any distribution and access restrictions on information that is provided under this Agreement and any of its Annexes.

11.4. The Parties shall investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this Agreement has been lost or disclosed to unauthorized persons or other entities. Each Party also shall promptly and fully inform the other Party of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

11.5. The Designated Security Authority (DSA) of a Party that awards a classified Contract under this Agreement shall assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or subcontractor of any Classified Information provided or generated under this Agreement, the recipient Party shall:

- 11.5.1. Ensure that such Contractor, prospective Contractor, or subcontractor and its facility(ies) has the capability to protect the Classified Information adequately.
- 11.5.2. Grant a security clearance to the facility(ies), if appropriate.
- 11.5.3. Grant a security clearance for all personnel whose duties require access to the Classified Information, if appropriate.
- 11.5.4. Ensure that all persons having access to the information are informed of their responsibilities to protect the information in accordance with national security laws and regulations, and the provisions of this Agreement.
- 11.5.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.
- 11.5.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the Project.

11.6. .. When a PA contains provisions for the exchange of Classified Information, the POs shall prepare a Project Security Instruction and a Classification Guide for the PA. The Project Security Instruction and the Classification Guide shall describe the methods by which Project Information and material shall be classified, marked, used, transmitted, and safeguarded. The Project Security Instruction and Classification Guide shall be developed by the POs within three months after the PA enters into force. They shall be reviewed and forwarded to the appropriate DSA and shall be applicable to all government and Contractor personnel participating in the Project. The Classification Guide shall be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide shall be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

11.7. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this Agreement and any of its PAs only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party shall not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Party shall be consulted for approval prior to permitting such access.

11.8. For any facility wherein Classified Information is to be used, the responsible Party or Contractor shall approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information pertaining to this Agreement and any of its PAs. These officials shall be responsible for limiting access to Classified Information involved in this Agreement and any of its PAs to those persons who have been properly approved for access and have a need to know.

11.9. Each Party shall ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the information in order to participate in this Agreement or any of its PAs.

11.10. Information exchanged under this Agreement will be at the unclassified level. However, information exchanged pursuant to a Project Agreement may, on a case by case basis, be classified as high as SECRET if such exchange is sufficiently justified, and processed and approved in accordance with the national disclosure policies and procedures of the Parties. Each Party shall ensure that access to Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the Classified Information in order to participate in a Project Agreement. The existence of this agreement is unclassified and its contents are unclassified.

ARTICLE XII

THIRD PARTY SALES AND TRANSFERS

12.1. Except to the extent permitted in paragraph 12.2., the Parties shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) or jointly acquired or produced Project Equipment to any Third Party without the prior written consent of the other Party's government. Furthermore, neither Party shall permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the other Party. Such consent shall not be given unless the government of the intended recipient agrees in writing with the Parties that it shall:

- 12.1.1. not retransfer, or permit the further retransfer of, any equipment or information provided; and
- 12.1.2. use, or permit the use of, the equipment or information provided only for the purposes specified by the Parties.

12.2. Each Party shall retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information that is:

- 12.2.1. generated solely by either Party or that Party's Contractors in the performance of that Party's work allocation under a PA or Article III (Scope of Work); and
- 12.2.2. which does not include any Project Foreground Information or Project Background Information of the other Party and whose generation, test, or evaluation has not relied on the use of Project Equipment of the other Party.

12.3. In the event questions arise whether the Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) that a Party intends to sell, transfer title to, disclose, or transfer possession of to a Third Party is within the scope of paragraph 12.2., the matter shall be brought to the immediate attention of the other Party's PO. The Parties shall resolve the matter prior to any sale or other transfer of such Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) to a Third Party.

12.4. A Party shall not sell, transfer title to, disclose, or transfer possession of Project Equipment or Project Background Information provided by the other Party, to any Third Party without the prior written consent of the Party's government that provided such equipment or information. The providing Party shall be solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

ARTICLE XIII

LIABILITY AND CLAIMS

13.1. For liability arising out of or in connection with activities undertaken in the performance of official duty in the execution and for the benefit of any PA or this Agreement, the following provisions shall apply.

13.2. Claims against any Party or its personnel shall be dealt with in accordance with the terms of other relevant bilateral treaties and agreements.

13.3. When other bilateral treaties and agreements do not apply, the following provisions shall apply:

13.3.1. With the exception of claims for loss of or damage to Project Equipment under Article VII (Project Equipment), each Party waives all claims against the other Party for injury to or death of its military or civilian personnel and for damage to or loss of its property caused by such personnel of that other Party. Employees and agents of Contractors shall not be considered to be civilian personnel employed by a Party for the purposes of this paragraph.

13.3.2. Claims from any other persons for injury, death, damage, or loss of any kind caused by one or both of the Parties' personnel shall be processed by the most appropriate Party, as determined by the Parties. Any costs determined to be owed the claimant shall be borne by the Parties in the same ratio as they share the financial and non-financial costs of the PA to which the claim is related. If, however, such loss or damage results from the reckless acts or reckless omissions, willful misconduct, or gross negligence of a Party or its personnel, the costs of liability will be borne by that Party alone.

13.4. In the case of damage to Project Equipment jointly acquired by the Parties under a PA, where the cost of making good such damage is not recoverable from other persons, such cost shall be borne by the Parties in the same ratio as they share the financial and non-financial costs of that PA.

13.5. Claims arising under any Contract awarded pursuant to Article VI (Contracting Provisions) of this Agreement shall be resolved in accordance with the provisions of the Contract.

ARTICLE XIV

CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

14.1. Customs duties, import and export taxes, and similar charges shall be administered in accordance with each Party's respective laws and regulations. Insofar as existing national laws and regulations permit, the Parties shall endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under each PA under this Agreement.

14.2. Each Party shall use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work. If any such duties, taxes, or similar charges are levied, the Party in whose country they are levied shall bear such costs.

ARTICLE XV

SETTLEMENT OF DISPUTES

15.1. Disputes between the Parties arising under or relating to this Agreement and any of its PAs shall be resolved only by consultation between the Parties and shall not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

ARTICLE XVI

LANGUAGE

- 16.1. The working language for this Agreement and its PAs shall be the English language.
- 16.2. Official decision sheets, meeting records, and official reports issued in the performance of a PA by SCs and POs will be issued in the English language.
- 16.3. Contracts shall be drawn up in the English language.

ARTICLE XVII

AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

All activities of the Parties under this Agreement shall be carried out in accordance with their national laws. The obligations of the Parties shall be subject to the availability of funds for such purposes.

17.1. In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article shall control.

17.2. In the event of a conflict between the terms of this Agreement and any PA agreed to under its auspices, the Agreement shall govern.

17.3. This Agreement and its PAs may be amended by the mutual written consent of the Parties. Annexes to the PAs may be amended by the SC or, if there is no SC, the POs, except for Appendix (1) to Annex A (Assignment of Cooperative Project Personnel) to the Sample Project Agreement which may be changed or amended only by the Parties.

17.4. This Agreement and its PAs may be terminated at any time by the written consent of the Parties. In the event both Parties consent to terminate this Agreement, or decide to terminate any PA, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.

17.5. Either Party may terminate this Agreement or any of its PAs upon 90 days written notice of its intent to terminate to the other Party. Such notice shall be the subject of immediate consultation by the ADs to decide upon the appropriate course of action to conclude the activities under this Agreement and the subject of immediate consultation by the MAs to discuss how to conclude any terminated PAs. In the event of such termination, the following rules apply:

17.5.1. The terminating Party shall continue participation, financial or otherwise, in all PAs subject to the notice of termination, up to the effective date of termination.

17.5.2. Except as to Contracts awarded on behalf of both Parties, each Party shall be responsible for its own Project-related costs associated with termination of the Project. For Contracts awarded on behalf of both Parties, the terminating Party shall pay all Contract modification and termination costs that would not otherwise have been incurred but for the decision to terminate. However, in no event shall a terminating Party's total financial contribution, including contract termination costs, exceed that Party's total financial contribution for the PA being terminated.

17.5.3. All Project Information and rights therein received under the provisions of this Agreement or PAs prior to termination of the Agreement or its PAs shall be retained by the Parties, subject to the provisions of this Agreement and its PAs.

17.5.4. If requested by the other Party, the terminating Party may continue to administer the Project Contract(s) which it awarded on behalf of the other Party on a reimbursable basis.

17.5.5. Specific PA termination provisions consistent with this article may be established in the PA.

17.6. The respective rights and obligations of the Parties regarding Article VII (Project Equipment), Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), Article XIII (Liability and Claims) and this Article XVII (Amendment, Termination Entry Into Force, and Duration) shall continue notwithstanding termination or expiration of this Agreement and any of its PAs.

17.7. This Agreement, which consists of seventeen (17) Articles and one Annex, shall enter into force upon signature by both Parties and shall remain in force for 10 years unless terminated by either Party. It may be extended by written agreement of the Parties. All PAs shall terminate upon the termination or expiration of this Agreement.

17.5.4. If requested by the other Party, the terminating Party may continue to administer the Project Contract(s) which it awarded on behalf of the other Party on a reimbursable basis.

17.5.5. Specific PA termination provisions consistent with this article may be established in the PA.

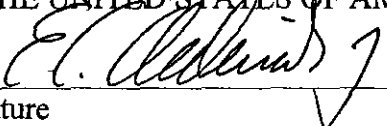
17.6. The respective rights and obligations of the Parties regarding Article VII (Project Equipment), Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), Article XIII (Liability and Claims) and this Article XVII (Amendment, Termination Entry Into Force, and Duration) shall continue notwithstanding termination or expiration of this Agreement and any of its PAs.

17.7. This Agreement, which consists of seventeen (17) Articles and one Annex, shall enter into force upon signature by both Parties and shall remain in force for 10 years unless terminated by either Party. It may be extended by written agreement of the Parties. All PAs shall terminate upon the termination or expiration of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this Agreement.

DONE, in duplicate, in the English language.

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA


Signature

Edward C. Aldridge, Jr.
Name

Under Secretary Of Defense
(Acquisition, Technology & Logistics)
Title

21 FEB 2003
Date

Honolulu, HI
Location

FOR THE MINISTRY OF DEFENCE OF
THE REPUBLIC OF SINGAPORE


Signature

Peter Ho
Name

Permanent Secretary (Defence)
Title

21 Feb 2003
Date

Honolulu, HI
Location